

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 12, 2004

IN RE:)	
)	
PETITION OF CHATTANOOGA GAS COMPANY)	DOCKET NO.
FOR APPROVAL OF ADJUSTMENT OF ITS)	04-00034
RATES AND CHARGES AND REVISED TARIFF)	

**ORDER GRANTING MOTION TO COMPEL AND REQUEST
OF THE CHATTANOOGA MANUFACTURING ASSOCIATION
TO SERVE ADDITIONAL DISCOVERY REQUESTS**

This matter is before the Hearing Officer upon the *Motion to Compel and Memorandum in Support of the Request of the Chattanooga Manufacturing Association to Service Additional Discovery Request* ("Motion") filed on May 11, 2004. The Chattanooga Manufacturing Association ("CMA") filed this *Motion* after having propounded discovery requests to Chattanooga Gas Company ("Chattanooga" or the "Company") in accordance with the discovery schedule established at the April 19, 2004 Status Conference. Chattanooga filed a response to CMA's *Motion* on May 14, 2004.

In its *Motion* CMA states that the parties attempted to resolve their discovery disputes through negotiations to no avail. CMA further questions the manner in which the Company determined the number of requests in excess of forty. Chattanooga argues in its Response that CMA has not stated a "good cause" for exceeding forty discovery requests and has failed to give reasons as to the need to ask particular questions or information already provided by the Company will not suffice.

The Hearing Officer agrees with the statement by Chattanooga that the fact that the Tennessee Regulatory Authority and the Consumer Advocate have asked substantially more than forty questions should not be a basis for allowing CMA to ask requests in excess of the limit prescribed in TRA Rule 1220-1-2-.11(5)(a). Nevertheless, there has been no assertion that the information being sought by CMA is duplicative as to other discovery requests or irrelevant to the issues presented in this case. Both Chattanooga and CMA accuse each other of delay tactics in the discovery process but these statements do not assist the Hearing Officer in determining whether CMA's remaining unanswered questions should be allowed or rejected.

TRA Rule 1220-1-2-.11(5)(a) provides:

No party shall serve on any other party more than forty (40) discovery requests including subparts without first having obtained leave of the Authority or a Hearing Officer. Any motion seeking permission to serve more than forty (40) discovery requests shall set forth the additional requests. The motion shall be accompanied by a memorandum establishing good cause for the service of additional interrogatories or requests for production. If a party is served with more than forty (40) discovery requests without an order authorizing the same, such party need only respond to the first forty (40) requests.

After reviewing the *Motion* of CMA and the additional discovery requests being sought by CMA, the Hearing Officer finds that CMA has demonstrated sufficient "good cause" for the service of the additional data requests. Discovery and motions filed in this case have demonstrated that this case is indeed "a complex case" and that CMA's requests seek information that will assist it in preparing its case. Because the Hearing Officer has been provided with no guidance as to which, if any, of the additional requests may be duplicative, the Hearing Officer will permit Chattanooga to respond to duplicative requests by directing CMA to a specific citation or filing in the record of this case where such information has already been provided.

IT IS THEREFORE ORDERED THAT:

1. The Chattanooga Manufacturing Association's Motion to Serve Additional Discovery Requests is granted.

2. Chattanooga Gas Company shall have until **4:00 p.m. on Monday, July 19, 2004** to serve answers to the discovery requests set forth in CMA's *Motion*. Chattanooga may respond to duplicative requests by directing CMA to a specific citation or filing in the record of this case where such information has already been provided. A copy of the Company's responses shall be filed with the Authority and served on other parties to this action on the date of service to the Consumer Advocate.


J. Richard Collier, Hearing Officer